

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ELVA BERNARD,	:	
Plaintiff,	:	Case No. 19-cv-5184-JMY
	:	
v.	:	
	:	
JOHNSON & JOHNSON,	:	
Defendant.	:	

ORDER

AND NOW, this 8th day of September, 2020, upon consideration of the Motion for Summary Judgment of Defendant, Johnson & Johnson,¹ (ECF No. 50), Plaintiff's Response in Opposition thereto, the Reply in Support thereof, and Sur-Reply in Opposition thereto, it is hereby **ORDERED** and **DECREED** that said Motion for Summary Judgment is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. The Motion for Summary Judgment is **GRANTED BY AGREEMENT** in favor of Defendant, and against Plaintiff, on the following claims:

- a. Count II (Strict Liability - Manufacturing Defect);
- b. Count IV (Strict Liability - Defective Product);
- c. Count VI (Common Law Fraud);
- d. Count VII (Fraudulent Concealment);
- e. Count VIII (Constructive Fraud);
- f. Count IX (Negligent Misrepresentation);
- g. Count X (Negligent Infliction of Emotional Distress);
- h. Count XI (Breach of Express Warranty);
- i. Count XII (Breach of Implied Warranty);

- j. Count XIII (Violation of Consumer Protection Laws); and
 - k. Count XV (Unjust Enrichment).
2. The Motion for Summary Judgment is **DENIED** in all other regards.

By the Court:

/s/ John Milton Younge
Judge John Milton Younge

¹ The motion for summary judgment was originally filed by Defendants, Ethicon, Inc. and Johnson & Johnson. Ethicon, Inc. was later dismissed from this action by joint stipulation. (ECF No. 65.) Therefore, to the extent that this motion relates to the liability of Ethicon, Inc., it is now a moot point.